

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>RICK DONALDSON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 18-CV-1754-SMY-DGW</b>
	)	
<b>BEN CANEVARI and</b>	)	
<b>VIVINT HOME SECURITY,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**YANDLE, District Judge:**

Plaintiff Rick Donaldson originally filed this lawsuit in state court against Defendants Vivint Home Security ("Vivint") and its employee, Ben Canevari, asserting claims for deceptive business practices, intentional and negligent infliction of emotional distress, and fraud. Specifically, Donaldson alleges that Canevari lied about merging with another home security company and "intentionally made statements to coerce the Plaintiff into entering a contractual agreement." (Doc. 1-1).

Vivint removed the case to this court, asserting diversity jurisdiction pursuant to 28 U.S.C. § 1441(b) (Doc. 1). It later moved to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. 10). Donaldson's response to the Motion was due by November 1, 2018, but no response has been filed.

The Court may, in its discretion, construe a party's failure to file a timely response as an admission of the merits of the motion. *See* Local Rule 7.1(c) (requiring a response to a motion to dismiss be filed 30 days after service of the motion and stating a failure to timely respond may be

deemed an admission of the merits of the motion); *see also Alioto v. Town of Lisbon*, 651 F.3d 715, 720–21 (7th Cir. 2011); *Tobel v. City of Hammond*, 94 F.3d 360, 362 (7th Cir. 1996) (“[T]he district court clearly has authority to enforce strictly its Local Rules, even if a default results.”). Here, having fully considered Vivint's arguments, the Court deems Plaintiff's failure to respond as an admission of the merits and **GRANTS** Defendant's Motion to Dismiss (Doc. 10). Accordingly, this case is **DISMISSED without prejudice** and the Clerk of Court is **DIRECTED** to close this case.

**IT IS SO ORDERED.**

**DATED: November 13, 2018**

s/ Staci M. Yandle  
**STACI M. YANDLE**  
**United States District Judge**